

Condoms = Arrest?

Police policies often discourage sex workers from carrying protection

By NADIA BERENSTEIN

“First [the police officer] asked me what I was doing with all these condoms. Then he took the bag and threw it in the garbage. Then he arrested me.”—A transgender woman in New York City, from a 2009 Sex Workers Project survey.



Sienna Baskin, staff attorney at the Sex Workers Project in New York City, says there's a question she's always asked at the “Know Your Rights” workshops she leads for prostitutes and other sex workers: “How many condoms are we legally allowed to carry?”

There is no law in any state in the U.S. restricting condom possession, but if you're a sex worker, you might have reason to believe there is a legal limit. Law enforcement officers in New York City, Washington, D.C., and the San Francisco Bay Area routinely confiscate condoms from suspected sex workers, sometimes filing them as evidence of prostitution. Almost everyone interviewed for a recent Sex Workers Project survey, Baskin says, “mentioned a certain number of condoms over which they felt more concerned about increased harassment.” Cyndee Clay, executive director of D.C.-based Helping Individual

Prostitutes Survive, says, “It's a common enough practice that everyone knows about it.”

Keeping a few condoms tucked in your handbag probably won't land you behind bars—unless police profile you as a possible sex worker. Are you in an area known for street prostitution? Are you a transgender woman? Are you a woman of color? Do you have a prior record? If you answer yes to any of these questions, the number of condoms you're carrying could suddenly become grounds for suspicion, even if you are not engaging in illegal activity.

Sex workers have reasons to want to avoid attracting attention from police that go beyond fear of arrest. There's a long and shameful history of abuse and harassment of sex workers by law enforcement—ranging from violence and threats of violence, to police demanding sexual favors in exchange for leniency, to rape. Within this uneasy context, the confiscation of condoms is not an anomaly but emblematic of the failed law enforcement approach to sex work. Instead of preserving the safety and well-being of this often vulnerable population, police officers are endangering them and undermining their ability to protect themselves, their peers, their clients and their communities.

Although sex workers have been challenging this kind of harassment for at least a decade, recent developments have brought the issue to the headlines. For one thing, a long-awaited bill in New York state which would prohibit the use of condoms as evidence seems to be gaining momentum. And in Washington, D.C., more than a thousand people recently sent letters to the mayor protesting the confiscation of condoms in the city, which has the nation's highest HIV-infection rate.

Instead of stigmatizing condom use, law enforcement should be promoting it, especially among high-risk groups such as sex workers. “Sex workers are safe-sex educators,” says Kimberlee Cline, a San Francisco-based escort. “Not only do we teach people how to use condoms, we teach people how to enjoy sex while wearing a condom. It's really important for us to be recognized as part of the solution.”

Excerpted from the Winter 2010 issue of Ms. To read the rest of this startling exposé and have the issue delivered to your door, [join the Ms. community.](#)